

RECORDING AGREEMENT

BETWEEN ARTIST & RECORDING COMPANY



The parties to the Agreement will be a record company and a recording artist. The agreement provides that the artist should provide its exclusive recording services to the record company for a specified period of time. The record company will own the sound recordings produced and will be entitled to exploit the rights in the recordings.

The artist usually receives an up front payment known as the "Advance" and an ongoing royalty (share of revenue) based upon the number of records sold. The type of record deals available differ hugely depending on the track record of the artist and record company involved. The principles however are the same.

Duration or 'Term'

As with the Management Agreement, look to see what the duration or 'Term' of the contract is and what your commitment to the record company is. The "minimum commitment" clause sets out how many albums or singles you will be expected to deliver to the record company. The company will expect you to assign all your rights in the recording to the company.

Advance

The advance that is paid to the artist will be offset against record royalties earned under the contract, therefore the artist will not receive any royalty payment until his advance has been fully recouped. This is known as recoupment and the advance is usually referred to as a "recoupable advance". It is important to note however that the advance should only be recoupable from the artists record royalties. There should be no liability on the artist to repay the advance if the artist does not generate enough royalties to repay the advance.

➤ See P70 'Advances and Recoupment'

Recoupable costs - What do I have to pay back to the record company?

Recoupable costs are those costs that have to be paid back to the record company from any royalties earned by the artist.

➤ See P70 'Advances and Recoupment'.

CASE STUDY

In the George Michael case against Sony one argument George Michael raised against the alleged unfairness of his contract with Sony was the fact that although he had repaid Sony the recording costs of his albums in full, under the terms of the contract Sony were entitled to retain full ownership of the copyright in the sound recordings. George Michael was unsuccessful and the industry "norm" is still that all of the major record companies will insist on retaining all of the copyright in the sound recording for the full term of copyright (see previous chapter – Duration of copyright') even if the recording costs have been fully recouped.

Royalties

A royalty is a payment based on a share of the income that your work has generated. For example, if you signed to a record label as an artist, you would be entitled to a share of the income from those record sales. A recording agreement specifies what level of royalty to expect, which is usually expressed as a percentage of the dealer price of every record that is sold. More on this in workbook 8.

Release commitment

A recording contract should include an obligation on the part of the company to release the artists recordings, otherwise the artist may be obliged to deliver recordings that could then sit on the shelf if the record company decides not to release them. The contract should therefore state that the recordings should be released within a stated time period after delivery and if the recordings are not released within the specified time the rights in those recordings should be given back to the artist. This is known as "reversion of rights".